2SHB 2603 - S AMD **269**
     By Senator Kastama

1   Strike everything after the enacting clause and insert the
2 following:

3   "**Sec. 1.** RCW 34.05.110 and 2009 c 358 s 1 are each amended to read
4 as follows:
5   (1) Agencies must provide to a small business a copy of the state
6 law or agency rule that a small business is violating and a period of
7 at least two business days to correct the violation before the agency
8 may impose any fines, civil penalties, or administrative sanctions for
9 a violation of a state law or agency rule by a small business. If no
10 correction is possible or if an agency is acting in response to a
11 complaint made by a third party and the third party would be
12 disadvantaged by the application of this subsection, the requirements
13 in this subsection do not apply.
14   (2) Except as provided in subsection ((~~(3)~~)) (4) of this section,
15 agencies shall waive any fines, civil penalties, or administrative
16 sanctions for first-time paperwork violations by a small business.
17   ((~~(2)~~)) (3) When an agency waives a fine, penalty, or sanction
18 under this section, when possible it shall require the small business
19 to correct the violation within a reasonable period of time, in a
20 manner specified by the agency.   If correction is impossible, no
21 correction may be required and failure to correct is not grounds for
22 reinstatement of fines, penalties, or sanctions under subsection
23 ((~~(4)~~)) (5)(b) of this section.
24   ((~~(3)~~)) (4) Exceptions to requirements of subsection (1) of this
25 section and the waiver requirement in subsection (2) of this section
26 may be made for any of the following reasons:
27   (a) The agency head determines that the effect of the violation or
28 waiver presents a direct danger to the public health, results in a loss
29 of income or benefits to an employee, poses a potentially significant

1   threat to human health or the environment, or causes serious harm to
2   the public interest;
3   (b) The violation involves a ((small business knowingly or
4   willfully engaging in conduct that may result in a felony conviction))
5   knowing or willful violation;
6   (c) The violation is of a requirement concerning the assessment,
7   collection, or administration of any tax, tax program, debt, revenue,
8   receipt, a regulated entity's financial filings, or insurance rate or
9   form filing;
10   (d) The ((waiver is)) requirements of this section are in conflict
11 with federal law or program requirements, federal requirements that are
12 a prescribed condition to the allocation of federal funds to the state,
13 or the requirements for eligibility of employers in this state for
14 federal unemployment tax credits, as determined by the agency head;
15   (e) The small business committing the violation previously violated
16 a substantially similar ((paperwork)) requirement; or
17   (f) The owner or operator of the small business committing the
18 violation owns or operates, or owned or operated a different small
19 business which previously violated a substantially similar
20 ((paperwork)) requirement.
21   (((4))) (5)(a) Nothing in this section prohibits an agency from
22 waiving fines, civil penalties, or administrative sanctions incurred by
23 a small business for a paperwork violation that is not a first-time
24 offense.
25   (b) Any fine, civil penalty, or administrative sanction that is
26 waived under this section may be reinstated and imposed in addition to
27 any additional fines, penalties, or administrative sanctions associated
28 with a subsequent violation for noncompliance with a substantially
29 similar paperwork requirement, or failure to correct the previous
30 violation as required by the agency under subsection (((2))) (3) of
31 this section.
32   (((5))) (6) Nothing in this section may be construed to diminish
33 the responsibility for any citizen or business to apply for and obtain
34 a permit, license, or authorizing document that is required to engage
35 in a regulated activity, or otherwise comply with state or federal law.
36   (((6))) (7) Nothing in this section shall be construed to apply to
37 small businesses required to provide accurate and complete information

1   and documentation in relation to any claim for payment of state or
2   federal funds or who are licensed or certified to provide care and
3   services to vulnerable adults or children.
4   (((7))) (8) Nothing in this section affects the attorney general's
5   authority to impose fines, civil penalties, or administrative sanctions
6   as otherwise authorized by law; nor shall this section affect the
7   attorney general's authority to enforce the consumer protection act,
8   chapter 19.86 RCW.
9   (9) As used in this section:
10   (a) "Small business" means a business with two hundred fifty or
11 fewer employees or a gross revenue of less than seven million dollars
12 annually as reported on its most recent federal income tax return or
13 its most recent return filed with the department of revenue.
14   (b) "Paperwork violation" means the violation of any statutory or
15 regulatory requirement that mandates the collection of information by
16 an agency, or the collection, posting, or retention of information by
17 a small business. This includes but is not limited to requirements in
18 the Revised Code of Washington, the Washington Administrative Code, the
19 Washington State Register, or any other agency directive.
20   (c) "First-time paperwork violation" means the first instance of a
21 particular or substantially similar paperwork violation."

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22   On page 1, line 2 of the title, after "businesses;" strike the
23 remainder of the title and insert "and amending RCW 34.05.110."

    EFFECT: The requirement to give a copy of the law and provide a
two-day grace period does not apply if a third party complainant would
be disadvantaged. Exceptions to agency requirements may be made if a

violation was knowing or willful. Neither the Attorney General's authority to sanction nor authority to enforce the consumer protection act are affected by the bill.

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